

PREHEARING CONFERENCE  
BEFORE THE  
CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

In the Matter of:	)	
	)	
Kings River Conservation	)	Docket No.
District (Kings River) Project	)	03-SPPE-02
<hr/>	)	

CALIFORNIA ENERGY COMMISSION  
HEARING ROOM A  
1516 NINTH STREET  
SACRAMENTO, CALIFORNIA

WEDNESDAY, MARCH 10, 2004

1:10 p.m.

Reported by:  
Peter Petty  
Contract No. 170-01-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

James D. Boyd, Presiding Member

HEARING OFFICER AND ADVISERS PRESENT

Major Williams, Jr., Hearing Officer

Michael Smith, Adviser

Scott Tomashefsky, Adviser

STAFF and CONSULTANTS PRESENT

Lisa DeCarlo, Staff Counsel

Jack Caswell, Project Manager

PUBLIC ADVISER

Margret Kim

APPLICANT

Edward J. Tiedemann, Attorney  
Kronick, Moskovitz, Tiedemann and Girard

Jack Sinor, Assistant General Manager  
Scott Redelfs, Director of Resources  
Patrick Campbell, System Engineer  
Kings River Conservation District (KRCD)

Paul Maxwell, Project Manager  
Amy Cuellar, Senior Engagement Manager  
Max Walenciak, Principal  
Navigant Consulting

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## P R O C E E D I N G S

1:10 p.m.

HEARING OFFICER WILLIAMS: Good

afternoon, everyone. This is a Committee prehearing conference by a Committee of the California Energy Commission on the proposed Kings River Conservation District Peaking Plant, CEC docket number 03-SPPE-02.

Commissioner James Boyd, the Presiding Member, is present. Chairman Keese, our Associate Member, is not. However, both their Advisers, Mike Smith and Scott Tomashefsky are present. Mike stepped out a minute, but he shall return.

I'm the Hearing Officer, Major Williams, Jr. The Commission's Public Adviser, Margret Kim, is present.

If anyone has any questions about the process here today, and the purpose of a prehearing conference, I would urge you to get Margret's attention and pose your questions to her. Margret, would you care to introduce yourself, so folks can see who you are.

MS. KIM: I'm Margret Kim, the Public Adviser. I'm not aware of any public members present at this time, however. Thank you.

1 HEARING OFFICER WILLIAMS: Okay, thank  
2 you.

3 Would the parties introduce themselves  
4 and whoever you've brought with you. We'll start  
5 with the applicant, Mr. Tiedemann.

6 MR. TIEDEMANN: Yes, my name is Edward  
7 Tiedemann with the lawfirm of Kronick, Moskovitz,  
8 Tiedemann and Girard, and I'm here representing  
9 Kings River Conservation District. And I have  
10 Jack Sinor here.

11 MR. SINOR: I'm Jack Sinor, Assistant  
12 General Manager for Kings River Conservation  
13 District, and Project Manager for the project.

14 PRESIDING MEMBER BOYD: Mr. Sinor, good  
15 to see you again.

16 MR. SINOR: Thank you.

17 HEARING OFFICER WILLIAMS: Good to see  
18 you. And I recognize some of the faces behind you  
19 there. I take it that they're here with you.

20 MR. SINOR: Yes. Do you want them to  
21 identify themselves for the record or not?

22 HEARING OFFICER WILLIAMS: Yes, why  
23 don't we do that.

24 MR. SINOR: Okay. Go ahead.

25 MR. CAMPBELL: Patrick Campbell, Staff

1 Engineer with Kings River Conservation District.

2 MS. CUELLAR: Amy Cuellar with Navigant  
3 Consulting.

4 MR. REDELFIS: Scott Redelfs with Kings  
5 River Conservation District.

6 MR. MAXWELL: Paul Maxwell with Navigant  
7 Consulting.

8 MR. WALENCIAK: Max Walenciak with  
9 Navigant Consulting.

10 HEARING OFFICER WILLIAMS: Thank you.  
11 Staff.

12 MS. DeCARLO: Lisa DeCarlo, Staff  
13 Counsel. To my left is Jack Caswell, Project  
14 Manager.

15 HEARING OFFICER WILLIAMS: Thank you. I  
16 don't believe there's anyone else here, agencies  
17 or governmental entities.

18 PRESIDING MEMBER BOYD: There's somebody  
19 out there.

20 (Laughter.)

21 PRESIDING MEMBER BOYD: Don't know if  
22 it's a participant or just an observer.

23 HEARING OFFICER WILLIAMS: I don't even  
24 see the Malaga Water District, so I take it they  
25 didn't decide to come, either.

1           And, of course, our only intervenor,  
2           which is CURE, to date, is not present, either.

3           Okay, since we've done the introductions  
4           I think there are a few housekeeping matters that  
5           I just wanted to address, of the parties.

6           The Committee has noted in staff's draft  
7           initial study that there is no discussion on the  
8           following topics: Alternatives, worker safety and  
9           fire protection, and visual plumes, is that  
10          correct? Or did I just miss it? You may have  
11          discussed these topics as a subset of other  
12          topics. Staff, is that how you handled that?

13          MR. CASWELL: Worker safety and fire  
14          protection is not part of that CEQA list for the  
15          SPPE mitigated negative dec process. There's a  
16          package that we have used that addressed the topic  
17          areas that we are to look at and discuss, and  
18          worker safety/fire protection was not one of those  
19          sections in that.

20          However, hazardous materials has  
21          discussions on safety issues in that section.

22          HEARING OFFICER WILLIAMS: What about  
23          visual plumes? Is that something that has been  
24          discussed anywhere?

25          MR. CASWELL: You know, I couldn't tell

1       you right at the moment. I don't believe that was  
2       an issue for staff when they reviewed it.

3               HEARING OFFICER WILLIAMS: Okay. I  
4       noted, for example, in applicant's application  
5       that there was some discussion of worker safety.  
6       I think it probably would be prudent for you to  
7       have your staff at least address it in some  
8       fashion, however you want to do it. I think maybe  
9       a declaration might suffice.

10              MR. CASWELL: Well, we'll see about  
11       having -- we're publishing today the final staff  
12       assessment, I mean the initial study. But we can  
13       do an addendum or an errata to that and file that  
14       under -- I'll have a discussion with my management  
15       which section they would like to insert that in  
16       and have that addressed.

17              HEARING OFFICER WILLIAMS: Okay. Yeah,  
18       I think it's an important area. And I think that  
19       since the applicant certainly covered it that  
20       staff can at least respond to whatever applicant  
21       indicated in its application.

22              Those are just the notes that I had as a  
23       housekeeping matter.

24              We'll move on to a discussion of the  
25       schedule. The Committee tentatively has scheduled



1       evidentiary hearings looking at March 23rd here,  
2       beginning at 10:00 a.m. Are the parties agreeable  
3       that that's acceptable?

4               MS. DeCARLO: Yeah, that's amenable for  
5       staff. That 's fine.

6               HEARING OFFICER WILLIAMS: Okay.

7               MR. TIEDEMANN: That's okay with the  
8       applicant.

9               MR. SINOR: That's acceptable to us.

10              HEARING OFFICER WILLIAMS: And certainly  
11       it appears that we can take most of the evidence  
12       by declaration. All parties have suggested in  
13       their prehearing conference statements that  
14       essentially all topics are non-contested, and may  
15       be presented and heard by declaration, is that  
16       correct?

17              MS. DeCARLO: Yes.

18              MR. TIEDEMANN: Yes.

19              HEARING OFFICER WILLIAMS: However, in  
20       the interests of clarity the Committee feel that  
21       it is important to hear some live testimony. And  
22       that testimony that the Committee would like to  
23       hear would be in the areas of, of course, the  
24       project description with Mr. Sinor and Mr. Caswell  
25       presenting -- and this will all be set out in a

1 notice of evidentiary hearing.

2 The Committee would also like to hear  
3 some live testimony on the subject of energy  
4 resources and alternatives, air quality and public  
5 health, hydrology and water quality, and visual  
6 resources and plumes. So in those areas the  
7 Committee would expect that, along with the  
8 declarations, that the parties will present their  
9 witnesses on those subjects, so the Committee can  
10 get a better feel for the posture of the case.  
11 And conclude for itself that, you know, we have a  
12 truly noncontroversial presentation.

13 Again, the Committee believes that all  
14 of the topics may be presented and heard subject  
15 to stipulated testimony by declaration. It is the  
16 Committee's preference that the stipulated topics  
17 be presented wholly by declaration and that they  
18 are presented first.

19 So, I had a sidebar discussion with Mr.  
20 Tiedemann earlier. We're looking at having the  
21 prefiled testimony filed next Wednesday. That  
22 gives you about a week. We'll set that forth,  
23 unless there's some objection, in the notice of  
24 evidentiary hearing, which you'll see this week,  
25 of course.

1 MR. TIEDEMANN: May I ask, on these  
2 witnesses that aren't testifying on these  
3 particular projects, and who put in declarations,  
4 will they have to be here at the time of the  
5 hearing?

6 HEARING OFFICER WILLIAMS: No, sir.  
7 Those declarations will come in by motion.

8 MR. TIEDEMANN: Thank you.

9 HEARING OFFICER WILLIAMS: Simply then  
10 at the evidentiary hearing, before the  
11 declarations are admitted, I'll just ask counsel  
12 to stipulate that there are no disputed issues on  
13 the topics; that the parties expressly waive  
14 cross-examination on the stipulated topics set  
15 forth wholly by sworn declaration. And that the  
16 parties expressly agree that we may proceed on  
17 those stipulated topics by way of sworn written  
18 declaration. And then they'll come in, with no  
19 need to have the witness present.

20 And then we'll move into taking the  
21 testimony on those subjects that I set out.

22 MS. DeCARLO: I just have a quick  
23 question. In terms of testimony you just want a  
24 couple-minute summarization of staff's testimony;  
25 and then have them available for any questions the

1 Committee would have?

2 HEARING OFFICER WILLIAMS: Right.

3 MS. DeCARLO: Okay.

4 HEARING OFFICER WILLIAMS: That's right,  
5 yeah. Shouldn't take very long. I think, you  
6 know, we've allotted 15 minutes. You probably  
7 won't use it all, except for air quality and  
8 public health.

9 Does anyone have any questions?

10 MS. DeCARLO: Just in response to your  
11 questions regarding the issue areas that you  
12 thought may have been overlooked. There is a  
13 small discussion of visual plumes in the final  
14 initial study. I'm not sure if it was included in  
15 our draft initial study, but it is there.

16 HEARING OFFICER WILLIAMS: Okay. Great.

17 MR. CASWELL: Also, Major, as I glance  
18 through here I believe some sections have brief  
19 discussions on particular areas; I notice in noise  
20 here, for worker effects.

21 HEARING OFFICER WILLIAMS: Right.

22 MR. CASWELL: Are related to noise.

23 HEARING OFFICER WILLIAMS: Okay.

24 MR. CASWELL: So some areas do have --

25 HEARING OFFICER WILLIAMS: I thought

1       that to be the case.

2               MR. CASWELL:  -- brief discussions  
3 throughout the document where it might relate to  
4 worker safety.

5               HEARING OFFICER WILLIAMS:  Okay, great.  
6 Does the Committee have any questions?  No?

7               I think we've covered everything we  
8 needed to cover, really.  This is sort of a  
9 record, I guess, for a prehearing conference.

10              PRESIDING MEMBER BOYD:  Anything else  
11 you can accomplish today since we've gathered all  
12 these people here?

13              (Laughter.)

14              MR. SINOR:  We're getting a lot more  
15 questions from the contractors than we're getting  
16 from the CEQA process.

17              PRESIDING MEMBER BOYD:  We always look  
18 forward to simple -- the simple case.  And so far,  
19 you're getting there.  But, cross your fingers.

20              (Laughter.)

21              PRESIDING MEMBER BOYD:  I've had a  
22 couple of simple cases lately that suddenly went  
23 on and on and on.  So, hopefully this is the  
24 exception.

25              HEARING OFFICER WILLIAMS:  Well, we

1 certainly appreciate that you all got up here and  
2 we're raring to go. And hopefully things will  
3 continue along on this track. And we look forward  
4 to seeing you back up here on the 23rd.

5 MS. DeCARLO: One quick question.  
6 Another one. In terms of air quality did you want  
7 staff to try and get the Air District to be  
8 available for any questions? Or are you  
9 comfortable with just staff's testimony?

10 HEARING OFFICER WILLIAMS: I think we're  
11 comfortable with just staff's testimony.

12 MS. DeCARLO: Okay.

13 HEARING OFFICER WILLIAMS: But, thank  
14 you.

15 Okay, then, I think we can adjourn.

16 (Whereupon, at 1:24 p.m., the prehearing  
17 conference was adjourned.)

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## CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,  
do hereby certify that I am a disinterested person  
herein; that I recorded the foregoing California  
Energy Commission Prehearing Conference; that it  
was thereafter transcribed into typewriting.

I further certify that I am not of  
counsel or attorney for any of the parties to said  
conference, nor in any way interested in outcome  
of said conference.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 12th day of March, 2004.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345